

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KEITH KENNETH KEMMERER, :
Petitioner, : CIVIL NO. 3:CV-08-1690
v. : (Judge Caputo)
LEHIGH COUNTY :
COURTHOUSE, *et al.*, :
Respondent. :

ORDER

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Petitioner Keith Kenneth Kemmerer, an inmate confined at the Waymart State Correctional Institution (“SCI-Waymart”) in Waymart, Pennsylvania, initiated this action by filing a *pro se* Petition for writ of habeas corpus pursuant to the provisions of 28 U.S.C. § 2254. (Doc. 1.) Kemmerer seeks to challenge his 2002 burglary conviction in Lehigh County, Pennsylvania. (See *id.* at 1.)

It appears that the Petition may be barred by the one-year statute of limitations set forth in 28 U.S.C. § 2244(d)(1). Therefore, the Court will direct Respondents to file a response addressing whether the Petition is timely. Petitioner will be granted an opportunity to file a reply to the Respondents’ submission. See *United States v. Bendolph*, 409 F.3d 155, 169 (3d Cir. 2005) (en banc) (a district court may raise the one-year statute of limitations on its own motion, provided that the petitioner is furnished notice and an opportunity to respond.) Respondents will not be required to address the merits of the petition

until the statute of limitations issue is resolved.

**NOW, THEREFORE, THIS 9th DAY OF OCTOBER, 2008, IT IS HEREBY
ORDERED AS FOLLOWS:**

1. The Clerk of Court is directed to serve a copy of the Petition (Doc. 1) and this Order on the Respondents and the District Attorney for Lehigh County.
2. Within twenty (20) days from the date of this Order, Respondents shall file a response addressing whether Petitioner's habeas petition is timely filed.
3. Petitioner is granted fifteen (15) days from the date of Respondents' submission to file a reply.
4. The Clerk of Court is to note the address of the District Attorney for Lehigh County, Pennsylvania, on the front of the docket sheet in this case. All documents filed by the parties and by the Court shall be served upon the District Attorney for Lehigh County and the Office of Attorney General.

s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge